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PUNJAB VIDHAN SABHA SECRETARIAT

NOTIFICATION

The 22nd March, 2016

No.27-PLA-2016/240.-The Punjab Settlement of Agricultural Indebtedness Bill, 2016 is hereby published for general information under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly):-

Bill No. 27-PLA-2016

THE PUNJAB SETTLEMENT OF AGRICULTURAL INDEBTEDNESS BILL, 2016

A
BILL

to provide relief to agriculturists, agricultural labourers and other persons dependent upon agriculture, and to provide for fair and expeditious settlement of their debt related disputes and for the matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Sixty-seventh Year of the Republic of India, as follows :-

1. (1) This Act may be called the Punjab Settlement of Agricultural Indebtedness Act, 2016. Short title and commencement.

(2) It shall come into force on and with effect from the date of its publication in the Official Gazette.

Definitions.

2. In this Act, unless the context otherwise requires,-

- (a) "agriculture" shall include horticulture and the use of the land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry, piggery, fishery or bees and the cultivation of agro forestry and the like;
- (b) "agriculturist" means a person who owns or cultivates land and whose means of livelihood is income from cultivation of such land or partly by income from cultivation of such land and partly by income he gets as wages in cash or kind or partly in cash or partly in kind from other occupation he performs;
- (c) "agricultural labourer" means a person who follows any one or more of the following occupations in the capacity of a labourer on hire or exchange, whether paid in cash or in kind or partly in cash and partly in kind:-
 - (i) farming including cultivation and tillage of soil, etc.;
 - (ii) dairy farming and fisheries;
 - (iii) production, cultivation, growing and harvesting of any horticultural commodity;
 - (iv) raising of livestock, bees or poultry; and
 - (v) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;
- (d) "Bank" means,-
 - (i) a Scheduled Bank as defined in clause (e) of section 2 of the Reserve Bank of India Act, 1934 (Central Act No. 2 of 1934); and
 - (ii) any other financial institution notified by the State Government in the Official Gazette as bank for the purposes of this Act;
- (e) "Civil Court" includes,-
 - (i) a court exercising jurisdiction under the Provincial Insolvency Act, 1920 (Central Act 5 of 1920); and

- (ii) a court exercising powers under the Provincial Small Cause Courts Act, 1887 (Central Act 9 of 1887);
- (f) "co-operative society" means a society registered or deemed to be registered under the Punjab Cooperative Societies Act, 1961;
- (g) "creditor" means a person or institution to whom a debtor owes the debt;
- (h) "debt" includes all liabilities of a debtor in cash or in kind secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not, but shall not include,-
 - (i) a debt due to the Central Government or State Government;
 - (ii) a debt due to a Corporation or Forum or any other organization established by the Government of the State of Punjab or Government of India under the relevant law;
 - (iii) any debt incurred for the purposes of trade;
 - (iv) any rent due in respect of any property let out to a debtor;
 - (v) any debt due to a bank or cooperative society;
 - (vi) any liability arising out of breach of trust or any tortious liability;
 - (vii) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;
 - (viii) a debt barred by law of limitation;
 - (ix) land revenue or any other sum recoverable as arrears of land revenue; and
 - (x) any liability in respect of maintenance whether under a decree of civil court or otherwise;
- (i) "debtor" means a person who owes a debt and -
 - (i) who earns his livelihood mainly by agriculture, and is either a land-owner, or tenant of agricultural land, or a servant of a land-owner or of a tenant of agricultural land; or
 - (ii) who earns his livelihood as an agricultural labourer paid in cash or kind for work connected with agriculture;

Explanation:-(a) The term debtor includes an agriculturist notwithstanding the fact that he has joined service in the Armed Forces of the Union; provided that his family is engaged in agriculture; and

(b) A debtor shall not lose his status as such because of the reason that-

- (i) he earns income by using his plough cattle or tractor for purposes of transport; or
- (ii) he does not cultivate with his own hands;
- (j) "Forum" means the District Agricultural Debt Settlement Forum established under section 5 of this Act;
- (k) "Government" means Government of Punjab unless the context otherwise requires;
- (l) "notified" means notified by notification published by the Government in the Official Gazette;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "rules" means rules made under this Act; and
- (o) "Tribunal" means the Punjab Agricultural Debt Settlement Tribunal established under section 6 of this Act.

Deemed
discharge.

3. Notwithstanding anything contained in any other law for the time being in force or in any contract or other instrument having the force of law or otherwise,-

- (a) every debt, together with any interest payable thereon, owed on the commencement of this Act by a debtor, shall be deemed to be wholly discharged, if it is so decided/determined by an order in writing by the Forum or the Tribunal on an application filed under this Act; and
- (b) every property pledged or mortgaged by a debtor whose debt is deemed to be discharged under clause (a) shall stand released and shall vest in him free from all encumbrances when such debt is deemed to be discharged.

Calculation of
interest.

4. The interest payable on the debt shall be calculated at such rate as may be notified by the Government. The interest payable on the debt, shall be simple interest calculated on yearly basis.

Establishment of
District
Agriculture Debt
Settlement
Forum.

5. (1) The Government shall establish a District Agriculture Debt Settlement Forum (hereinafter referred to as Form) at every district of the State to carry out the purposes of this Act within the territorial jurisdiction of such district.

(2) The Forum shall consist of three members including a Chairman, to be appointed by the Government.

(3) The Chairman of the Forum shall be a retired District and Sessions Judge or a retired Additional District and Sessions Judge.

(4) The members of the Forum shall be eminent persons, one representing community of farmers and other the creditors who provide agricultural loans:

Provided that-

- (i) the persons appointed as Chairman and members shall cease to hold the office as such on attaining the age of sixty-five years;
- (ii) they shall be appointed for a period of three years; and
- (iii) they shall not be eligible for re-appointment.

(5) The Forum shall have the jurisdiction to make settlement between the debtor and his creditor if -

- (i) the loan has been taken by the debtor or provided by the creditor for agricultural purposes; and
- (ii) the total debt of the debtor does not exceed rupees fifteen lacs.

6. (1) The Government shall establish a Punjab Agricultural Debt Settlement Tribunal (hereinafter referred to as Tribunal) comprising of three members including a Chairman. Establishment of Debt Settlement Tribunal.

(2) The Chairman of Tribunal shall be a retired Judge of a High Court.

(3) Two members of the Tribunal shall be appointed by the Government from amongst the eminent persons having experience in social service, agriculture, financial services, banking and civil services:

Provided that -

- (i) the persons appointed as Chairman and members shall not be above the age of sixty-five years;
- (ii) they shall be appointed for a period of three years; and
- (iii) they shall not be eligible for re-appointment.

7. (1) The quorum of the Forum or the Tribunal shall be two members including the Chairman. Transaction of business of the Forum and Tribunal.

(2) Where the Chairman and members of the Forum or the Tribunal

are not unanimous on any point or issue, the decision of the majority shall prevail.

Acts of the Forum or the Tribunal not to be invalid by certain defects.

8. No act of the Forum or the Tribunal shall be deemed to be invalid by reason only of the existence of any vacancy of a member of the Forum or the Tribunal or of any procedural defect in the transaction of business of the Forum or the Tribunal.

Application for determination and settlement of debt.

9. (1) A debtor or any of his creditors may apply to the Forum within whose jurisdiction, the debtor resides or holds any land to determine and settle the debt between the debtor and his creditor(s).

(2) An application to the Forum shall be made in writing and signed by the applicant.

Particulars of application.

10. An application under this Act, shall be presented to the Chairman and it shall contain the following particulars, namely:-

(a) in the case of a debtor -

- (i) the place where he resides or holds land;
- (ii) the particulars of all claims against him together with names and residences of his creditors;
- (iii) a statement that his total amount of debts does not exceed rupees fifteen lacs;
- (iv) a statement whether he has previously filed an application in respect of the same debt before the Forum and if so, then the outcome thereof; and
- (v) a statement of grounds of application and relief claimed alongwith copies of documents relied upon; and

(b) in the case of a creditor(s) -

- (i) the place where the debtor resides or holds land;
- (ii) the amount and particulars of his claim against such debtor; and
- (iii) a statement of grounds of application and relief claimed alongwith copies of documents relied upon.

Procedure on receipt of application.

11. (1) On receipt of an application under section 9, the forum shall pass an order fixing a date and place for hearing the application.

(2) The Forum may pending its final decision on application, make such interlocutory order including the order for keeping the recovery of debt

in abeyance, as it may deem necessary in the interest of justice.

12. (1) On the date fixed under sub-section (1) of section 11, the Forum shall issue notice to the creditor of the debtor to submit a statement of debt owed to such creditor by the debtor. Such statement shall be submitted to the Forum in writing giving details of every transaction of debit and credit in the account of the debtor within a period of two weeks alongwith the copies of documents to be relied upon in support of his claim:

Notice calling
upon the creditor
to submit
statement.

Provided that the Forum may extend this period up to one month for submission of statement of debts for the reasons to be recorded in writing:

Provided further that for extension beyond a period of one month, the creditor shall not be entitled to receive any interest for that period and the recovery of loan shall be stayed till the settlement of debt.

(2) Every debt owed to a creditor of which no statement has been submitted to the Forum in compliance with the provisions of sub-section (1), shall be deemed to be duly discharged for all purposes and all occasions against such creditor, and every debt owed to two or more redictors jointly, of which such statements or statements signed by all such creditors or their recognized agents has or have not been so submitted, shall be deemed to be so discharged against such creditors as have failed to submit the said statement, but only to the extent of their respective shares in the said debt:

Provided that no such debt shall be deemed to have been discharged against any creditor whose name has not been included in the application made under section 9.

(3) If a debtor or a creditor fails to appear before the Forum without sufficient cause after due service, the Forum shall proceed ex-parte to determine and settle the debt.

13. (1) Every creditor submitting in compliance of a notice issued under sub-section (1) of section 12, a statement of the debts owed to him, shall furnish, alongwith the statement, full particulars of all such debts, and shall at the same time, produce all documents (including entries of books of account) on which he relies to support his claims, together with a copy of every such document.

Procedure on
submission of
statements of
debts.

(2) With a view to ascertain the originality and correctness of the documents produced under sub-section (1), the Forum shall make thorough verification thereof and after ascertaining the same, it shall retain the copies of such documents and return the original to the creditor.

Power of the
Forum to
adjudicate.

14. (1) If a creditor or a debtor, as the case may be, challenges the genuineness or enforceability or the total amount of debt or principal or rate of interest or amount of interest or date of raising of any debt included in an application, the Forum shall adjudicate upon the issue.

(2) The Forum shall determine in the case of each debt, shown in the application made by the debtor or his creditor under section 9 or in the statement furnished by the creditor under section 12, other than a debt, declared non-genuine or unenforceable, the principal amount originally advanced, the amount paid by the debtor towards the principal or interest or both and the amount of principal and interest payable as notified under this Act.

(3) The Forum shall decide every application submitted under section 9 within a period of three months from the date of application.

(4) Where the debtor is found to have repaid to the creditor an amount equal to, or exceeding, double the principal amount, or the debtor on being apprised of such finding, pays any amount, which makes the total repayment equal to double the amount of principal, the Forum shall declare the debt as fully discharged and thereupon the provisions of clause (b) of section 3, shall apply.

(5) The Forum shall keeping in view the outstanding amount of principal and interest as determined under sub-section (2), and the paying capacity of the debtor, order the repayment of the amount of debt, settled or determined in such installments as it may deem fit.

(6) If the Forum finds that the provisions of the Punjab Regulation of Accounts, Act, 1930, have not been complied with by the creditor, it may, for the reasons to be recorded in writing disallow the interest partly or wholly for the period of non-compliance. The creditor shall issue a duly authenticated passbook to the debtor, clearly giving the details of his loan account.

Powers of the
Forum and
Tribunal to
summon.

15. The Forum and the Tribunal may exercise all such powers with reference to summoning and examining of parties and witnesses and with the production of documents, as are conferred on Civil Courts by the Code of Civil Procedures 1908 (Central Act 5 of 1908) and every proceeding before the Forum and the Tribunal shall be deemed to be judicial proceedings.

Re-opening of
transaction.

16. Notwithstanding anything contained in any other law for the time being in force, if the Forum has reason to believe:-

(a) that the interest charged by the creditor, is excessive; or

- (b) that the transaction between the parties thereto, was substantially unfair;

the Forum shall exercise all or any of the following powers, namely:-

- (i) re-open the transaction, take an account between the parties and relieve the debtor of all liabilities in respect of any excessive interest;
- (ii) notwithstanding any agreement, purporting to close previous dealing and to create a new obligation, re-open any account, already taken between them and relieve the debtor of all liabilities in respect of any excessive interest, and if anything has been paid or allowed in account in respect of such liabilities, order the creditor to repay any sum, which it considers to be repayable in respect thereof ; and
- (iii) set aside either wholly or in part or revise or alter any security given or agreement made in respect of any loan, and if the creditor has parted with the security, order him to indemnify the debtor in such manner and to such extent, as it may deem fair and proper:

Provided that, in the exercise of these powers, the Forum shall not -

- (i) re-open any agreement purporting to close previous dealings and to create a new obligation which has been entered into by the parties or any persons from whom they claim at a date, more than five years from the date of the transaction; and
- (ii) do anything which affects any decree of a civil court passed before the commencement of this Act.

Explanation:

- (1) In the case of an application brought on a series of transaction, the expression "transaction" means for the purpose of clause (i) of the proviso, the first of such transactions.
- (2) The interest, shall be deemed to be excessive, if it exceeds the rate of interest notified under this Act.

- Bar to successive application. 17. If once an application has been disposed of, the Forum shall not entertain subsequent application for the same cause of action between the same parties.
- Decision of the Forum to be final. 18. If any question arises in any proceedings under this Act as to whether a loan, or liability is a debt or not or whether a person is a debtor or not, the decision of the Forum shall be final, and shall not be called in question in any Civil Court.
- Bar of civil suits. 19. No civil court shall entertain:-
(a) any suit, appeal or application for revision -
(i) to question the validity of any procedure or the legality of any order or award made under this Act ; or
(ii) to recover any debt, which is deemed to have been duly discharged, under the provisions of this Act ; or
(b) any suit for declaration, or any suit or application for injunction, affecting any proceedings under this Act before the Forum.
- Review. 20. (1) Any person, who, from the discovery of any new and important fact or evidence which, after the exercise of due diligence, was not in his knowledge or could not be produced by him before or at the time, when an order was made by the Forum, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of such order, he may submit an application to the Forum for reviewing such orders.

(2) On receiving an application under sub-section (1), the Forum may, if no appeal has been filled, by reviewing its order, pass such orders, as it may deem appropriate:

Provided that the Forum shall not pass an order which adversely affects any party without giving such party an opportunity of being heard:

Provided further that no application for review shall be entertained, if presented more than sixty days after the date of passing the order, sought to be reviewed.
- Appeal. 21. Any person aggrieved by an order of the Forum under section 14, may file an appeal before the Tribunal within a period of sixty days from the date of receipt of the order.

However, no appeal shall lie against an order passed by the Forum on a review application in which the original order is not modified and the person

aggrieved by the order of the Forum on a review application may file an appeal in the High Court on a question of law within a period of sixty days from the date of receipt of copy of such order.

(2) Any person aggrieved by an order of the Tribunal may file an appeal in the High Court on a question of law within a period of sixty days from the date of receipt of copy of the order of the Tribunal.

22. In any proceedings under this Act, a party may appear in person or through any other person duly authorized in writing. Appearance of party.

23. (1) On and from the commencement of this Act, no civil court shall entertain any new suit filed for the recovery of any debt covered under this Act. Bar to new suits and transfer of pending suits.

(2) Any suit pending before a Civil Court on such commencement in respect of any such debt, shall be transferred by that Court to the Forum having jurisdiction in the matter.

24. The order of the Forum passed under this Act, shall be executed by the civil court having jurisdiction in the area as if it were a decree or an order of that court. Recovery of sums due.

25. Notwithstanding anything contained in any other Act for the time being in force, the provisions of this Act shall have an overriding effect. Overriding effect.

26. (1) The Government may by notification in the Official Gazette, make rules to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act. Power to make rules.

(2) The rules made under sub-section (1) shall be subject to the condition of previous publication.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the House of State Legislature, while it is in Session for a total period of ten days, which may be comprised in one Session or in two successive Sessions, and if before the expiry of the Session in which it is so laid or the successive Sessions aforesaid, the House agrees in making any modification in the rules or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

Power of the
Government to
issue directions.

27. The Government may issue directions to the Forum or the Tribunal for carrying out the purposes of the Act and in particular with regard to speedy settlement of the debt cases before them.

Power of the
Government to
solve difficulties.

28. If any difficulty arises before the Forum or the Tribunal, as the case may be, in carrying out the purposes of this Act, then the Forum or the Tribunal may refer such difficulty to the Government and the order of the Government in such matter shall be final:

Provided that no such order shall be made by the Government after the expiry of a period of three years from the date of commencement of this Act.

Repeal and
saving.

29. (1) The Punjab Relief of Indebtedness Act, 1934 is hereby repealed.

(2) Notwithstanding the repeal of the Act referred to in sub-section (1), anything done or any action taken under the said Act, shall be deemed to have done or taken under the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Agricultural indebtedness has increased manifold. It is an outcome of the mis-match between the prices of agricultural inputs and minimum support price of agricultural produce. Consequently the livelihood of farmers and all other persons dependent on agriculture have been adversely affected. These persons raise loans from institutional and non-institutional resources. Institutional loans are regulated through various special legislations governing the institutions providing such loans. However, non-institutional loans are largely unregulated with no easily accessible forum for remedy. This legislation provides for a framework for regulation and settlement of agricultural debts. It aims to provide a forum for determination and expeditious settlement of debts of agriculturists and all other persons dependent upon agriculture with a view to alleviate their difficulties.

TOTA SINGH,
Minister for Agriculture, Punjab.

FINANCIAL MEMORANDUM

Section 26 of the Punjab Settlement of Agricultural Indebtedness Bill, 2016 empowers to the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the provisions of the Act and are normal in nature.

CHANDIGARH:
The 22nd March, 2016

SHASHI LAKHANPAL MISHRA
SECRETARY.